

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FRED BAVONE

Plaintiff,

Civil Action No. _____

v.

PRIMAL VANTAGE COMPANY, INC.,
a corporation; PLANO SYNERGY
HOLDINGS, INC., a corporation t/d/b/a
Ameristep, Inc.; and AMERISTEP, INC.,
a corporation,

Defendants.

NOTICE OF REMOVAL

TO: UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

Defendants, Primal Vantage Company, Inc., Plano Synergy Holdings, Inc., and Ameristep, Inc. (collectively, the “Defendants”), through their attorneys, and pursuant to 28 U.S.C. § 1441, *et. seq.*, file this Notice of Removal of the above-captioned matter to the United States District Court for the Western District of Pennsylvania and in support of their Notice of Removal state:

BACKGROUND

1. This action was commenced on or about August 30, 2021, by the filing of Plaintiff, Fred Bavone (“Plaintiff”)’ Complaint and Jury Demand in the Court of Common Pleas of Indiana County, State of Pennsylvania, entitled “FRED BAVONE v. PRIMAL VANTAGE COMPANY, INC., et. al.,” being No. 11862 CD of 2019 in the files and records of that Court. This civil action involves allegations of strict liability, negligence and breach of warranty against Defendants. (Compl. ¶¶ 8-18).

2. There have been no further proceedings in the State Court Action.

3. The Complaint was filed on September 13, 2020. Defendants have not yet been served. Copies of the Summons and Complaint, together with all other process, pleadings and orders in the above-described action are attached as **Exhibit A**.

4. This Notice of Removal is being timely filed under 28 U.S.C. § 1446(b), as it is filed within thirty (30) days of that in which Defendants were served with Plaintiffs' Complaint and Jury Demand.

REMOVAL IS PROPER BASED UPON DIVERSITY JURISDICTION

5. The above-described action is one of which this Court has original jurisdiction on the basis of complete diversity of citizenship and an amount in controversy in excess of \$75,000.00, exclusive of interest and costs, under the provisions of 28 U.S.C. § 1441(a) and pursuant to the procedures set forth in 28 U.S.C. § 1446, for the following reasons:

a. This is a civil action in which Plaintiff alleges strict liability, negligence and breach of warranty against Defendants. (Compl. ¶¶ 8-18).

b. Plaintiff was at all times relevant hereto a resident of the State of Pennsylvania. (Compl. ¶ 1).

c. Pursuant to 28 U.S.C. § 1332(c)(1), Defendant Primal Vantage Company, Inc. was a citizen of the State of Delaware and Colorado at the time of the commencement of this action, and is now a citizen of the State of Delaware and Colorado because it was at the time of the commencement of this action, and is now, a corporation incorporated in the State of Delaware, with its principal place of business in Colorado and therefore, Defendant Primal Vantage Company, Inc. was not, and is not, a citizen of the State of Pennsylvania.

d. Pursuant to 28 U.S.C. § 1332(c)(1), Defendant Plano Synergy Holdings, Inc. was a citizen of the State of Delaware and the State of Illinois at the time of the commencement of this action, and is now a citizen of the State of Delaware and the State of Illinois, because it was at the time of the commencement of this action, and is now, a Delaware corporation with its principal place of business in Plano, Illinois and therefore, Defendant Plano Synergy Holdings, Inc. was not, and is not, a citizen of the State of Pennsylvania.

e. Pursuant to 28 U.S.C. § 1332(c)(1), Defendant Ameristep, Inc. was a citizen of the State of Michigan at the time of the commencement of this action, and is now a citizen of the State of Michigan, because it was at the time of the commencement of this action, and is now, a Michigan corporation with its principal place of business in Michigan and therefore, Defendant Ameristep, Inc. was not, and is not, a citizen of the State of Pennsylvania.

f. This is a controversy between a Pennsylvania resident, a Delaware and Colorado corporation, a Delaware and Illinois corporation, and a Michigan corporation. Consequently, the controversy is between citizens of different states; and

g. Although Defendants deny any and all liability, the amount in controversy exceeds the \$75,000.00 jurisdictional limit of this Court, exclusive of interest and costs based on the fact that this is a personal injury lawsuit, where the Plaintiff alleges he fell from a tree and grabbed onto a plastic strap-on tree step causing his right arm and hand to grab a hook that had been placed in the tree. (Compl. ¶ 7). In addition, he alleges “a torn biceps tendon, shock and attendant nervous disorder, pain, suffering and inconvenience, a diminution or lessening of life’s pleasures,” and that he “in the past and will in the future be required to expend large sums of money for medical and other treatment in an effort to restore himself to his former condition of good health.” (Compl. ¶ 11).

6. Pursuant to 28 U.S.C. § 1446(a) a Notice of Filing Notice of Removal will be filed with the Clerk of the Court for the Circuit Court for the County of Indiana and will be served upon the Plaintiff's counsel. A true and correct copy of the written Notice of Filing Notice of Removal is attached hereto as **Exhibit B** and incorporated herein by reference. Plaintiff is hereby notified to proceed no further in State Court.

7. All Defendants have consented to removal.

WHEREFORE, Defendants, Primal Vantage Company, Inc., Plano Synergy Holdings, Inc., and Ameristep, Inc. respectfully request that the above-described action be removed from the Court of Common Pleas of Indiana County, Pennsylvania, to the United States District Court for the Western District of Pennsylvania.

Respectfully submitted this 21st day of September, 2021.

CLARK HILL PLC

By: /s/ Vincent M. Roskovensky
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Attorney for Defendants

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FRED BAVONE

State Court No. 11862 CD of 2019

Plaintiff,

v.

PRIMAL VANTAGE COMPANY, INC.,
a corporation; PLANO SYNERGY
HOLDINGS, INC., a corporation t/d/b/a
Ameristep, Inc.; and AMERISTEP, INC.,
a corporation,

Defendants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that I have this 21st day of September, 2021, filed
DEFENDANTS' NOTICE OF REMOVAL with the Court and served via the Court's CM/ECF
service upon the following:

Jeffrey D. Monzo, Esquire
PA I.D. #66518
Quatrini Rafferty, P.C.
550 E. Pittsburgh Street
Greensburg, PA 15601
(724) 837-0080

/s/ Vincent M. Roskovensky
Vincent M. Roskovensky, Esquire
PA. I.D. No. 89447